



Note to Reader:

Legislative Guides, prepared in an objective and nonpartisan manner, provide a general survey of a particular area of the law and are intended for use primarily by members of the Iowa General Assembly and their staffs. Legislative Guides are updated periodically to reflect changes in the law. The reader is cautioned against using information contained in a Legislative Guide to draw conclusions as to the legality of a particular behavior or set of circumstances.

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**2009 SUPPLEMENT TO LEGISLATIVE
GUIDE TO STATE TAXATION IN IOWA**

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2009 Supplement to State Taxation in Iowa



I. Introduction

A. Purpose

The purpose of this Supplement is to provide an update to the December 2008 version of the Legislative Guide "State Taxation in Iowa." The updates included in this Supplement reflect changes to Iowa's tax laws made during the 2009 Legislative Session.

B. Presentation

As a Supplement to the December 2008 Legislative Guide, the changes described here should be read within the larger context provided by the organization of that document. For that reason, the updates included in this Supplement are presented as a set of revisions to the 2008 Legislative Guide, including page and outline references to the amended sections of that Guide.

C. A Note About References

A number of abbreviations or shorthand references are used in this Supplement:

1. "Iowa Code" refers to both the 2009 Iowa Code and the 2009 Iowa Code Supplement.
2. "Internal Revenue Code" or "IRC" refer to the federal Internal Revenue Code of 1986 as in effect on January 1, 2009.
3. "Iowa Administrative Code" refers to the Iowa Administrative Code as of November 2009.
4. "FY" refers to the fiscal year ending on June 30 of the year designated. For example, "FY 2009" means the fiscal year that begins July 1, 2008, and ends June 30, 2009.
5. "Guide" refers to the December 2008 "Legislative Guide to State Taxation in Iowa."

II. Income and Franchise Taxes¹

A. IRC Update: Research Activities Tax Coupling

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 478	Chapter 179

Division VIII of S.F. 478 updates the references to the IRC in Code Sections 15.335 and 15A.9. These Code sections couple the Iowa Research Activities Tax Credit with the federal Research Activities Tax Credit for purposes of Iowa income tax.

¹ The Guide covers the Income and Franchise taxes beginning at page 2.



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2. Updates to the Guide

a. On page 3, remove the paragraph designated "ii. Definition of Income and Conformity With the Federal Code" and replace with the following paragraph:

ii. Definition of Income and Conformity With the Federal Code.

Iowa, as many states do, uses federal adjusted gross income as the starting point in the income tax calculation. This means that Iowa net income conforms to federal definitions of sources included in income as well as adjustments to gross income.¹² Each year, Iowa legislators give consideration to an "IRC update bill," which, if enacted, has the effect of adding to the Iowa income tax code all changes made in the prior year to the federal Internal Revenue Code. A bill updating generally the references to the federal IRC was last enacted in 2008, so the latest updated references to the federal Internal Revenue Code are to the IRC as of January 1, 2008.¹³ However, during the 2009 Legislative Session, the references to the federal research activities credit were updated to January 1, 2009.¹⁴ Adjustments to federal adjusted gross income, such as the standard deduction, personal exemption credit, certain itemized deductions, and tax credits, and the tax rates are determined as a matter of state public policy, independent of the federal Internal Revenue Code.

b. On page 26, remove the first paragraph of the paragraphs designated "e. Computation and Conformity With the Federal Code" and replace with the following paragraph:

e. Computation and Conformity With the Federal Code. It is important to note that Iowa, like most other states, uses the federal corporate taxable income of the corporation as the basis for the Iowa corporate income tax. As a result, Iowa conforms to federal definitions of income, and in general, conforms to adjustments made to income computed for federal purposes. Each year, Iowa legislators give consideration to an "IRC update bill," which, if enacted, has the effect of adding to the Iowa income tax code all changes made in the prior year to the federal Internal Revenue Code. However, if the state does not wish to conform to federal provisions, the General Assembly may depart from the computation of federal taxable income and enact certain adjustments for Iowa purposes. To the extent that Iowa conforms with federal law in this regard, it has the advantage of reducing administrative costs for the state collection agency and compliance costs for the taxpayer. An IRC update bill was last enacted in 2008, so the latest updated references to the federal Internal Revenue Code are to the IRC as of January 1, 2008.⁸¹ However, during the 2009 Legislative Session, the references to the federal research activities credit were updated to January 1, 2009.⁸²

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B. New Deduction:² The Value of Health Benefits Coverage or Insurance for Adult Children

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 389	Chapter 118

Division II of S.F. 389 amended Code Section 422.7 to create a new Iowa income tax deduction for taxpayers whose health benefits provide coverage of certain adult children. The amount of the deduction equals the value of the coverage that is attributable to children that the IRS considers nonqualified tax dependents.

2. Updates to the Guide

On page 5, after the third bulleted paragraph, add the following new bulleted paragraph:

- The value of health benefits or insurance that covers certain adult children. The amount of the deduction is the value of the benefits attributable to a covered, nonqualified tax dependent as determined by the IRS.

C. New Deduction: The Amount of Federal Segal AmeriCorps Education Award Payments

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 482	Chapter 161

Senate File 482 amended Code Section 422.7 to create a new Iowa income tax deduction for the amount of federal Segal AmeriCorps education award payments received by a taxpayer.

2. Updates to the Guide

On page 6, add the following new bulleted paragraph as the last bulleted paragraph on that page:

- Federal Segal AmeriCorps education award payments.

² The Guide covers deductions and other adjustments to the computation of income beginning at page 4.



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D. Maximum Aggregate Limit:³ \$185 Million Maximum Aggregate Limit Imposed on Economic Development Tax Credit Programs

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 483	Chapter 135

Division I of S.F. 483 imposed a maximum aggregate limit of \$185 million on most tax credit programs administered by the Department of Economic Development.

2. Updates to the Guide

On page 9, after the paragraph designated "(8) 2008 Federal Tax Rebates" add the following new paragraph:

(9) Economic Development Tax Credits Limited. In 2009, a maximum aggregate limit was placed on the amount of tax credits the Department of Economic Development may issue pursuant to the High Quality Job Creation Program; the Film, Television, and Video Project Promotion Program; the Corporate Research Tax Credit of the Quality Jobs Enterprise Zone Program; the Enterprise Zones Program; and the Assistive Device Tax Credit Program.

The Department of Economic Development may not issue more than \$185 million of tax credits under these programs for a fiscal year. The amount of tax credits that may be issued under the Agricultural Assets Transfer Tax Credit Program is limited to \$3 million. The limits apply to contracts and agreements entered into or tax credits awarded on or after July 1, 2009.

E. Credit Cap Increased: Additional \$1 Million in Tax Credits for Renewable Energy Generation Components Approved

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
H.F. 817	Chapter 171

Previously, the total amount of tax credits for renewable energy generation components that can be claimed under the research activities credit of the High Quality Job Creation Program (HQJCP) was limited to \$1 million.

House File 817 raised the limit to \$2 million total. Since \$1 million of tax credits have already been claimed, now an additional \$1 million of tax credits was made available.

³ The Guide covers tax credits by listing after each tax the various tax credits that can be applied against it. The tax credits that can be applied against the individual income tax are covered beginning at page 9 of the Guide. The tax credits that can be applied against the corporate income tax are covered beginning at page 29 of the Guide.

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2. Updates to the Guide

On page 10, remove the third paragraph of the paragraphs designated "(5) Research Activities Credit" and replace with the following paragraph:

Effective for projects approved on or after July 1, 2009, a total of \$2 million in research activities credits under the HQJCP are available for expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa. These expenses are not eligible for purposes of the federal research activities credit. A business eligible for this additional credit must be approved by the Department of Economic Development. See "(16) Investment Tax Credit" beginning on page 14 for a further discussion of the HQJCP.³³

F. Tax Credit Eliminated: Individual Income Tax Credit for Assistive Devices Eliminated

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 478	Chapter 179

Previously, a tax credit was available to businesses for the purchase, rental, or modification of assistive devices. The credit was available against both the individual and corporate income taxes.

Division VIII of S.F. 478 contained one provision eliminating the credit against the individual income tax and one eliminating the credit against the corporate income tax.

The Governor item-vetoed the provision eliminating the credit against the corporate income tax, but the credit against the individual income tax was not vetoed.

2. Updates to the Guide

a. On page 11, remove the paragraph designated "(8) Assistive Device Tax Credit".

b. On pages 11 and 12, remove footnotes 41 and 42.

c. On page 29, remove the fourth bulleted paragraph and replace with the following bulleted paragraph:

- **An assistive device tax credit.**⁹⁷ A taxpayer who operates a small business is allowed a tax credit equal to 50 percent of the first \$5,000 paid for the purchase, rental, or modification of an assistive device or for the renovation of the workplace for an individual with a disability. The credit is refundable. A small business is one that either had gross receipts in the preceding tax year of \$3 million or less or employed not more than 14 full-time employees during its preceding tax year.



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G. Credit Program Modified: Historic Preservation Tax Credit Allocation Increased and Program Modified

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 481	Chapter 98

Senate File 481 made a number of significant changes to the Historic Preservation Tax Credit Program.

2. Updates to the Guide

On page 11, remove the paragraphs designated "(7) Historic Preservation and Cultural and Entertainment District Tax Credit" and replace with the following paragraph:

(7) Historic Preservation and Cultural and Entertainment District Tax Credit.³⁵ (effective July 1, 2000) A taxpayer may receive a tax credit in an amount equal to the costs³⁶ of rehabilitating properties eligible to be listed on the National Register of Historic Places, historic properties in areas eligible to be designated local historic districts, local landmarks, or barns constructed prior to 1937.

In the case of commercial property, rehabilitation costs must equal at least 50 percent of the assessed value of the property, excluding the land, prior to rehabilitation. In the case of residential property or barns, the rehabilitation costs must equal at least \$25,000 or 25 percent of the assessed value, whichever is less.³⁷ In addition, the rehabilitation project must be approved by the State Historic Preservation Office of the Department of Cultural Affairs.³⁸

Originally, only \$2.4 million in tax credits under the individual and corporate income taxes, the franchise tax, and the insurance premiums tax could be approved in a fiscal year, with credit certificates issued on the basis of the earliest awarding of certificates of completion. In 2009, the aggregate amount of tax credits that may be approved in a fiscal year was increased from \$20 million to \$50 million. Of the \$50 million of tax credits that may be approved in a fiscal year, for the fiscal period beginning July 1, 2009, and ending June 30, 2012, the department must reserve a portion of the tax credits for different tax years. For more information on the amount and fiscal year requirements of the reserved portions, please see Code Chapter 404A.³⁹

Of the amount of tax credits that may be approved under the program, specific allocations are required for certain types of projects. Of the \$50 million that may be approved, 10 percent must be allocated for projects costing less than \$500,000, 30 percent must be allocated for projects in cultural and entertainment districts, 20 percent must be allocated for disaster recovery projects, 20 percent must be allocated for projects that will result in the creation of 500 or more jobs, and 20 percent must be allocated for eligible projects generally, without imposing

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special requirements. If, in any fiscal year, an amount of tax credits allocated pursuant to certain projects goes unclaimed, those tax credits may be reallocated by the department to other projects according to the relative priority of projects.

Tax credits may be reserved for up to three years, are refundable, and, in most cases, may be transferred to another taxpayer. In lieu of claiming a refund, a taxpayer may elect to have the overpayment credited to the tax liability in the following tax year.⁴⁰

H. Withholding Credit Program Eliminated:⁴ Alternative Enterprise Zone Housing Assistance Programs Funded by a Credit From Withholding Eliminated

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 478	Chapter 179

Previously, Code Section 15E.196 provided for a withholding credit to eligible businesses in an enterprise zone if the business established a housing assistance program. Division VIII of S.F. 478 eliminates the provision allowing for this credit.

2. Updates to the Guide

On page 14, remove the first paragraph of the paragraphs designated "(16) Investment Tax Credit" and replace with the following paragraph:

(16) Investment Tax Credit. (effective 2002 Tax Year) An investment tax credit is available to a taxpayer equal to an amount of up to 10 percent of the new investment directly related to new jobs created or buildings constructed by eligible businesses, including farmers' cooperatives primarily involved in the production of value-added products, under the Department of Economic Development's New Jobs and Income Program (effective beginning 1994 through June 2005), for eligible businesses under the New Capital Investment Program (effective beginning 2003 through June 2005), or for eligible businesses locating in, developing in city or county designated enterprise zones (effective beginning 1997).⁵⁰

I. Tax Credit Changed: Endow Iowa Tax Credit Limits Adjusted

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 478	Chapter 179

⁴ This credit, found in Code Section 15E.196, subsection 1, paragraph "b", was available as an alternative to the assistance provided through the New Jobs From Withholding Credit available under paragraph "a" of the same subsection. The elimination of the Alternative Housing Assistance Withholding Credit does not affect the availability of the New Jobs From Withholding credit.



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Division VIII of S.F. 478 increases the total aggregate limit on the amount of tax credits that may be issued under the Endow Iowa Program to \$3 million, increases the percentage of the amount of a contribution that may be claimed to 25 percent, and eliminates the ability to take a deduction on the same contribution for which a taxpayer is also claiming a credit under the program.

2. Updates to the Guide

On page 16, remove the paragraph designated "(19) Endow Iowa Tax Credit" and replace with the following paragraph:

(19) Endow Iowa Tax Credit. (effective 2003 Tax Year) A tax credit is allowed for endowment gifts made to an Endow Iowa qualified community foundation to be used for charitable purposes. Any unused credit may be carried forward for up to five tax years. The amount of the credit equals 25 percent of the amount of the gift. The maximum amount of tax credits any taxpayer may receive cannot exceed 5 percent of the aggregate dollar amount of tax credits authorized. The aggregate amount of tax credits authorized under the individual and corporate income, franchise, insurance premiums, and moneys and credits taxes was limited to \$2 million in the aggregate for tax years 2003 through 2008. For 2010 and subsequent tax years, the cap is \$3 million per year plus a percentage of gaming revenues. Ten percent of the dollar amount of tax credits authorized in a calendar year is reserved for those endowment gifts in amounts of \$30,000 or less.⁵⁴

J. Alternative Tax Credit: Wind Energy Production Alternative Tax Credit Pilot Project Created

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 478	Chapter 179

Iowa provides a Wind Energy Production Tax Credit in an amount equal to 1 cent times the number of kilowatt-hours sold.

Division VIII of S.F. 478 directed the Iowa Utilities Board to create an alternative tax credit equal to 1.5 cents per kilowatt-hour sold. The alternative tax credit is to be operated as a pilot project available to no more than two projects that meet certain eligibility requirements. Except for the amount of the credit and some eligibility requirements, the alternative tax credit operates substantially the same as the existing Wind Energy Production Tax Credit.

2. Updates to the Guide

On page 17, remove the paragraph designated "(20) Wind Energy Production Tax Credit" and replace with the following paragraphs:

(20) Wind Energy Production Tax Credit. (effective 2004 Tax Year) A tax credit is allowed based upon the number of kilowatt-hours of electricity sold or

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used for on-site consumption by a wind production facility that is originally placed in operation between July 1, 2005, and June 30, 2012. The credit equals the number of kilowatt-hours sold times 1 cent. The Iowa Utilities Board must determine the eligibility of the facility for the credit. However, the board is limited in the amount of (manufacturer designated) generating capacity for which it can award credits. An owner of a facility cannot own more than two qualified facilities eligible for the tax credits. The board of supervisors of the county where the facility is located must give its approval before a qualified facility may receive the credit. The credit is nonrefundable but may be transferred and carried forward up to seven years. In addition, a credit certificate issued under the program cannot be used for a tax year beginning prior to July 1, 2006.⁵⁵

For those taxpayers that qualify, an Alternative Wind Energy Tax Credit is available. The alternative credit is operated as a pilot project by the Iowa Utilities Board and open to no more than two qualified facilities. The amount of the credit available under the pilot project equals the number of kilowatt-hours sold times 1.5 cents. To be eligible for the pilot project, a qualified facility must meet the following requirements: all other eligibility requirements of the Wind Energy Tax Credit must be met; the facility must be located in a county with a population of between 44,150 and 44,500; and the facility must have a combined nameplate generating capacity of at least one megawatt per applicant. For purposes of the pilot project, the two-megawatt-minimum requirement for qualification for the Wind Energy Tax Credit does not apply to the Alternative Wind Energy Tax Credit. If it awards alternative tax credits under the pilot project, the board must reduce the remaining credits available under the other wind energy tax credit provision by a dollar amount equal to the amount of credits awarded pursuant to the pilot project.

K. Credits Modified: Film Expenditure and Investment Tax Credit Amounts Modified

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 480	Chapter 109

Senate File 480 modifies the amount of tax credits and income reductions available under the Film, Television, and Video Project Promotion Program.

2. Updates to the Guide

a. On page 21, remove the paragraphs designated "(30) Film Qualified Expenditure Credit" and replace with the following paragraph:

(30) Film Qualified Expenditure Credit. (effective 2007 Tax Year) A tax credit is provided in an amount not to exceed 25 percent of a taxpayer's qualified expenditures in a project registered under the Film, Television, and Video Project Promotion Program. A qualified expenditure is a payment to an Iowa resident or an Iowa-based business for the sale, rental, or furnishing of tangible personal property or for services directly related to the registered



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project. In order for the project to be registered, the Department of Economic Development must find that the project is a legitimate attempt to produce an episode or segment, includes expenditures of at least \$100,000 in the state, has a sufficient economic impact on the state or locality, furthers tourism and population retention or growth, and meets any other criteria set by the Department of Economic Development. The tax credit is transferable to another taxpayer. A taxpayer claiming this tax credit, a business in which such taxpayer has an equity interest, and a business in which such taxpayer participates in its management is not eligible to receive the adjusted gross income reduction provided under the program for income earned related to the registered project.⁶⁵

b. Beginning on page 21, remove the paragraph designated "(31) Film Investment Credit" and replace with the following paragraph:

(31) Film Investment Credit. (effective 2007 Tax Year) A Film Investment Tax Credit is provided in an amount not to exceed 25 percent of a taxpayer's investment in a project registered under the Film, Television, and Video Project Promotion Program. A Film Investment Tax Credit cannot be claimed for qualified expenditures if a Film Qualified Expenditure Tax Credit is also claimed. In order for the project to be registered, the Department of Economic Development must find that the project is a legitimate attempt to produce an episode or segment, includes expenditures of at least \$100,000 in the state, has a sufficient economic impact on the state or locality, furthers tourism and population retention or growth, and meets any other criteria set by the department. The tax credit is transferable to another taxpayer.

L. New Tax Credit: Qualifying Investments in Disaster Recovery Housing Projects

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 457	Chapter 100

Division IV of S.F. 457 created an income tax credit for a qualifying investment in a disaster recovery housing project. The credit can be applied against the individual and corporate income taxes, but is only available to disaster recovery housing projects that meet certain conditions.

2. Updates to the Guide

a. On page 22, after the last of the paragraphs under the tax credit designated "(32) Redevelopment Tax Credit" insert the following new paragraphs:

(32A) Disaster Recovery Housing Project Tax Credit. (effective 2009 Tax Year) A tax credit is provided for a qualifying investment in a disaster recovery housing project. The credit can be applied against individual or corporate income tax liability.

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To qualify as a disaster recovery housing project, a property and the activities affecting the property must meet certain conditions, including the following: the project involves the construction or rehabilitation of housing on the property; the property is located in an area that was declared a disaster area between May 1, 2008, and August 31, 2008; an application for federal low-income housing tax credits has been submitted to the Iowa Finance Authority; the project meets the requirements for residential housing density; the project meets the requirements for availability and accessibility of educational services; and the project is designed to avoid, prevent, or mitigate the effects of a future natural disaster.

The tax credit equals 75 percent of the taxpayer's qualifying investment in a disaster recovery housing project. A "qualifying investment" means the costs incurred by the taxpayer that are directly related to a disaster recovery housing project, and which are incurred on or after May 12, 2009, and prior to July 1, 2010.

The amount of the tax credit is required to be divided by five and applied equally to the taxpayer's tax liability for five consecutive tax years commencing with the tax year beginning in the 2011 calendar year. The tax credit is not refundable. The total amount of tax credits that may be issued is \$3 million in each of the five tax years. The tax credits are issued on a first-come, first-served basis.

b. On page 31, after the second bulleted paragraph listing the Redevelopment Tax Credit, insert the following new bulleted paragraph:

- A Disaster Recovery Housing Project Tax Credit.

M. Corporate NOL: Carryback of Corporate Net Operating Losses Ended

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 483	Chapter 135

Division II of S.F. 483 eliminated the carryback of corporate net operating losses.

2. Updates to the Guide

On page 28, remove the paragraph designated "iii. Net Operating Loss" and replace with the following paragraph:

iii. Net Operating Loss. If after all adjustments are made, a net operating loss occurs for tax years beginning after August 5, 1997, and ending before January 1, 2009, the loss may be carried back two years or forward for up to 20 years. The carryback period is three years if the taxpayer operates a small business or farm in a presidentially declared disaster area. However, the carryback period for net operating losses from farming businesses is increased to five years to the extent the losses are for tax years beginning on or after January



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1, 1998.⁹² For tax years beginning prior to August 6, 1997, the loss may be carried back three tax years or carried forward for up to 15 tax years. In 2009, the carryback of net operating losses of corporations was ended. For tax years beginning on or after January 1, 2009, there is only a carryforward period of 20 taxable years.

N. Erratum: Incorrect Tax Bracket Year Indicated in December 2008 Edition of the Guide

On page 23, the last sentence of the paragraph designated "iv. Rate Structure and Brackets — Indexing" indicated that the brackets following were for the 2008 tax year. However, that sentence should have indicated that the brackets were for the 2009 tax year.

O. 2010 Indexation: Standard Deduction and Tax Rate Brackets Updated for 2010 Tax Year

1. Standard Deduction

Pursuant to Code Sections 422.4(2) and 422.21, the Department of Revenue has computed the standard deduction for the 2010 tax year as follows:

Filing Status	Amount
Single and married filing separately	\$1,810
Married filing jointly	\$4,460

2. Tax Rate Brackets

Pursuant to Code Sections 422.4(1) and 422.21, the Department of Revenue has computed the tax rate brackets for the 2010 tax year as follows:

Over	But Not Over		Tax Rate	Of Excess Over
\$0	\$1,428	=	\$0.00 + (0.36% x	\$0)
\$1,428	\$2,856	=	\$5.14 + (0.72% x	\$1,428)
\$2,856	\$5,712	=	\$15.42 + (2.43% x	\$2,856)
\$5,712	\$12,852	=	\$84.82 + (4.50% x	\$5,712)
\$12,852	\$21,420	=	\$406.12 + (6.12% x	\$12,852)
\$21,420	\$28,560	=	\$930.48 + (6.48% x	\$21,420)
\$28,560	\$42,840	=	\$1,393.15 + (6.80% x	\$28,560)
\$42,840	\$64,260	=	\$2,364.19 + (7.92% x	\$42,840)
\$64,260	-----	=	\$4,060.65 + (8.98% x	\$64,260)

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III. Consumption and Use (Excise) Taxes⁵

A. Exemption Clarified: Sales Tax Exemption for Casual Sales Does Not Apply to All-terrain Vehicles, Snowmobiles, Off-road Motorcycles, and Off-road Utility Vehicles

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 478	Chapter 179

Division VIII of S.F. 478 adds language to the casual sales exemption from the sales tax to provide that sales of all-terrain vehicles, snowmobiles, off-road motorcycles, and off-road utility vehicles do not qualify for the exemption.

2. Updates to the Guide

a. On page 40, remove the paragraph designated "d. Casual Sales" and replace with the following paragraph:

d. Casual Sales. Tangible personal property and services that qualify as casual sales are exempt from sales and use tax, except for the casual sale of vehicles subject to registration, all-terrain vehicles, snowmobiles, off-road motorcycles, off-road utility vehicles, aircraft, and watercraft. In order for a sale to qualify for exemption as a casual sale, the sale must be made by a person who is not a retailer or, if the seller is a retailer, the current sale must be unrelated to the retailer's regular business and must not involve a liquidation of the business. Two separate sales unrelated to the seller's regular business within a 12-month period are not considered to be typical and, therefore, are not taxable. Three separate sales within a 12-month period are considered recurring or typical. Tax applies beginning with the third sale. If a sale occurs consistently over a span of years, it is considered recurring and not casual, even though only one sale occurs each year. However, the sales of a service are a casual sale even though the sales are of a recurring nature if (1) the seller is not engaged for profit in the business of selling the service, (2) the owner is the only person performing the service, (3) the owner is a full-time student, and (4) the total gross receipts for performing the service in the calendar year does not exceed \$5,000.²⁰⁵

b. On page 79, remove the seventh bulleted paragraph and replace with the following bulleted paragraph:

- Casual sales exemption does not apply to vehicles subject to registration, all-terrain vehicles, snowmobiles, off-road motorcycles, off-road utility vehicles, aircraft, or commercial or pleasure craft or water vessels. 423.3(39) (2005, 2009)

⁵ The Guide covers consumption and use taxes beginning at page 37.



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B. Rebate Modified: Automobile Racetrack Ownership Transfer Provisions Changed

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 478	Chapter 179

Division XVIII of S.F. 478 modifies the threshold percentage for determining local ownership and control of automobile racetrack facilities. The division provides that the sales tax rebate to the owners of automobile racetrack facilities ceases upon a change of control of the facility. Previously, the rebate also ceased upon the sale or transfer of the facility to a party other than the original owner of the facility.

2. Updates to the Guide

On page 40, remove the second of the paragraphs designated "c. Targeted Rebate." and replace with the following paragraph:

The rebate ceases upon the date of the change in control of the facility. A change in control occurs if at least 25 percent of the equity interest ceases to be owned by Iowa residents or an Iowa corporation or if the original owners cease to own more than 25 percent of the voting interests of the facility owner. The rebate provision is repealed either June 30, 2016, or when \$12.5 million has been rebated, or upon a change in control of the facility, whichever occurs earliest.²⁰⁴

C. New Refunds and Exemption: A Graduated Scale of Incentives Created for Certain Data Center Businesses Based on Size of Investment

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 478	Chapter 179

Division XV of S.F. 478 provides a set of tax incentives to certain data center businesses. The incentives are provided on a graduated scale, based on the relative size of the investment a business makes in the state.

2. Updates to the Guide

a. On page 41, before the paragraph designated "3. Use Tax (Subch. III)" insert the following new paragraphs:

e. Data Center Businesses. A number of sales tax incentives are available to certain data center businesses. The incentives are provided on a graduated scale, based on the relative size of the investment a business makes in the state. To be eligible for the incentives, the business must be operating a data center. A data center is a building rehabilitated or constructed to house a group of networked server computers in one physical location in order to centralize the storage, management, and dissemination of data and information pertaining to a

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particular business, taxonomy, or body of knowledge. Data centers also typically include certain physical and security infrastructure necessary to operate and protect the computers.

A business investing at least \$200 million is eligible for a permanent sales tax exemption and a property tax exemption. The property tax exemption does not include land or buildings. The sales tax exemption covers the sales price of certain computer-related equipment, back-up power generation fuel, and electricity. To qualify, the data center must have a physical location in the state that is at least 5,000 square feet in size and that is used for the operations and maintenance of the data center business. The data center must comply with the sustainable design and construction standards set by the State Building Code Commissioner.

A business investing at least \$1 million, but less than \$200 million, is eligible for a 50 percent sales tax refund. The refund is available for varying periods of time, with the length of time determined by the amount of the investment.

To qualify for a refund, a data center business must have a physical location in the state that is at least 5,000 square feet and must comply with the sustainable design and construction standards set by the State Building Code Commissioner.

b. On page 79, after the last bulleted paragraph, insert the following new bulleted paragraph:

- Refund of 50 percent of the sales price of certain computer equipment and power supplies used to operate data center businesses. 423.4(8), 423.4(9)

c. On page 75, after the last bulleted paragraph, insert the following new bulleted paragraph:

- The sale or rental of computers and equipment that are necessary for the maintenance and operation of a data center business and for property that is directly or indirectly connected to the computers, for the sale of back-up power generation fuel and for electricity purchased to operate the data center, provided certain eligibility requirements are met. 423.3(95)

D. Exemption Eliminated: Exemption for Transactions Also Exempt From the Sales Tax Eliminated

1. Legal Reference and Explanation

Bill Number	2009 Iowa Acts
S.F. 478	Chapter 179

Previously, transactions exempt from the state sales tax were also exempt from tax under the state and local hotel and motel excise taxes.



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Division VIII of S.F. 478 eliminates the exemption from the state and local hotel and motel taxes for transactions exempted from the sales tax.

2. Updates to the Guide

On page 42, remove the paragraph designated "i. Excise Tax on Hotel and Motel Rooms" and replace with the following paragraph:

i. Excise Tax on Hotel and Motel Rooms. A tax of 5 percent is imposed upon the sale price from the renting of rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals.²¹⁵ However, this tax does not apply to the gross receipts from the renting of a room, apartment, or sleeping quarters while rented by the same person for a period of more than 31 consecutive days or from the renting of sleeping rooms in dormitories and in memorial unions at universities and colleges in the state or from lodging furnished for a religious retreat or function if the lodging property is exempt from property taxes as property of a religious institution.

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